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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 5th December, 2003:—

I

BILL NO. LXV OF 2003

A Bill further to amend the Indian Medicine Central Council Act, 1970.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Indian Medicine Central Council (Amendment) Act, 2003. Short title and commencement.

(*2*) It shall be deemed to have come into force on the 7th day of November, 2003.

48 of 1970.

2. In the Indian Medicine Central Council Act, 1970 (hereinafter referred to as the principal Act), in section 2, after clause (*e*), the following clause shall be inserted, namely:— Amendment of section 2.

'(*ea*) "medical college" means a college of Indian medicine, whether known as such or by any other name, in which a person may undergo a course of study or training including any post-graduate course of study or training which will qualify him for the award of a recognised medical qualification;'.

Substitution of new Chapter for Chapter IIA.

3. For Chapter IIA of the principal Act, the following Chapter shall be substituted, namely:—

'CHAPTER IIA

PERMISSION FOR NEW MEDICAL COLLEGE, COURSE, ETC.

Permission for establishment of new medical college, new course of study, etc.

13A. (*1*) Notwithstanding anything contained in this Act or any other law for the time being in force, —

(*a*) no person shall establish a medical college; or

(*b*) no medical college shall—

(*i*) open a new or higher course of study or training, including a post-graduate course of study or training, which would enable a student of such course or training to qualify himself for the award of any recognised medical qualification; or

(*ii*) increase its admission capacity in any course of study or training including a post-graduate course of study or training,

except with the previous permission of the Central Government obtained in accordance with the provisions of this section.

Explanation 1.—For the purposes of this section, "person" includes any University or a trust, but does not include the Central Government.

Explanation 2.—For the purposes of this section, "admission capacity", in relation to any course of study or training, including post-graduate course of study or training, in a medical college, means the maximum number of students as may be fixed by the Central Government from time to time for being admitted to such course or training.

(*2*) Every person or medical college shall, for the purpose of obtaining permission under sub-section (*1*), submit to the Central Government a scheme in accordance with the provisions of sub-section (*3*) and the Central Government shall refer the scheme to the Central Council for its recommendations.

(*3*) The scheme referred to in sub-section (*2*), shall be in such form and contain such particulars and be preferred in such manner and accompanied with such fee, as may be prescribed.

(*4*) On receipt of a scheme from the Central Government under sub-section (*2*), the Central Council may obtain such other particulars as may be considered necessary by it from the person or the medical college concerned, and thereafter, it may,—

(*a*) if the scheme is defective and does not contain necessary particulars, give a reasonable opportunity to the person or medical college concerned for making a written representation and it shall be open to such person or medical college to rectify the defects, if any, specified by the Central Council;

(*b*) consider the scheme, having regard to the factors referred to in sub-section (*8*) and submit it to the Central Government together with its recommendations thereon within a period not exceeding six months from the date of receipt of the reference from the Central Government.

(*5*) The Central Government may, after considering the scheme and recommendations of the Central Council under sub-section (*4*) and after obtaining, where necessary, such other particulars as may be considered necessary by it from the person or medical college concerned and having regard to the factors

referred to in sub-section (*8*), either approve the scheme with such conditions, if any, as it may consider necessary or disapprove the scheme and any such approval shall constitute as a permission under sub-section (*1*):

Provided that no scheme shall be disapproved by the Central Government except after giving the person or medical college concerned a reasonable opportunity of being heard:

Provided further that nothing in this sub-section shall prevent any person or medical college whose scheme has not been approved by the Central Government to submit a fresh scheme and the provisions of this seetion shall apply to such scheme as if such scheme had been submitted for the first time under sub-section (*2*).

(*6*) Where, within a period of one year from the date of submission of the scheme to the Central Government under sub-section (*2*), no order is communicated by the Central Government to the person or medical college submitting the scheme, such scheme shall be deemed to have been approved by the Central Government in the form in which it was submitted, and, accordingly, the permission of the Central Government required under sub-section (*1*) shall also be deemed to have been granted.

(*7*) In computing the time-limit specified in sub-section (*6*), the time taken by the person or medical college concerned submitting the scheme, in furnishing any particulars called for by the Central Council, or by the Central Government, shall be excluded.

(*8*) The Central Council while making its recommendations under clause (*b*) of sub-section (*4*) and the Central Government while passing an order, either approving or disapproving the scheme under sub-section (*5*), shall have due regard to the following factors, namely:—

(*a*) whether the proposed medical college or the existing medical college seeking to open a new or higher course of study or training, would be in a position to offer the minimum standards of medical education as prescribed by the Central Council under section 22;

(*b*) whether the person seeking to establish a medical college or the existing medical college seeking to open a new or higher course of study or training or to increase its admission capacity has adequate financial resources;

(*c*) whether necessary facilities in respect of staff, equipment, accommodation, training, hospital or other facilities to ensure proper functioning of the medical college or conducting the new course of study or training or accommodating the increased admission capacity have been provided or would be provided within the time-limit specified in the scheme;

(*d*) whether adequate hospital facilities, having regard to the number of students likely to attend such medical college or course of study or training or the increased admission capacity have been provided or would be provided within the time-limit specified in the scheme;

(*e*) whether any arrangement has been made or programme drawn to impart proper training to students likely to attend such medical college or the course of study or training by persons having recognised medical qualifications;

(*f*) the requirement of manpower in the field of practice of Indian medicine in the medical college;

(*g*) any other factors as may be prescribed.

(*9*) Where the Central Government passes an order either approving or disapproving a scheme under this section, a copy of the order shall be communicated to the person or medical college concerned.

Non-recognition of medical qualifications in certain cases.

13B. (*1*) Where any medical college is established without the previous permission of the Central Government in accordance with the provisions of section 13A, medical qualification granted to any student of such medical college shall not be deemed to be a recognised medical qualification for the purposes of this Act.

(*2*) Where any medical college opens a new or higher course of study or training including a post-graduate course of study or training without the previous permission of the Central Government in accordance with the provisions of section 13A, medical qualification granted to any student of such medical college on the basis of such study or training shall not be deemed to be a recognised medical qualification for the purposes of this Act.

(*3*) Where any medical college increases its admission capacity in any course of study or training without the previous permission of the Central Government in accordance with the provisions of section 13A, medical qualification granted to any student of such medical college on the basis of the increase in its admission capacity shall not be deemed to be a recognised medical qualification for the purposes of this Act.

Time for seeking permission for certain existing medical colleges.

13C. (*1*) If any person has established a medical college or any medical college has opened a new or higher course of study or training or increased the admission capacity on or before the commencement of the Indian Medicine Central Council (Amendment) Act, 2003, such person or medical college, as the case may be, shall seek, within a period of three years from the said commencement, permission of the Central Government in accordance with the provisions of section 13A.

(*2*) If any person or medical college, as the case may be, fails to seek permission under sub-section (*1*), the provisions of section 13B shall apply, so far as may be, as if permission of the Central Government under section 13A has been refused.'.

Repeal and Saving.

4. (*1*) The Indian Medicine Central Council (Amendment) Ordinance, 2003 is hereby repealed. Ord. 8 of 2003.

(*2*) Notwithstanding the repeal of the Indian Medicine Central Council (Amendment) Ordinance, 2003, anything done or any action taken under the principal Act, as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act, as amended by this Act. Ord. 8 of 2003.

STATEMENT OF OBJECTS AND REASONS

The Indian Medicine Central Council Act, 1970 was enacted to constitute Central Council of Indian Medicine (CCIM) for regulation of education and maintenance of Central Register of practitioners of Ayurveda, Siddha and Unani and for matters connected therewith. This Act is based on the pattern of the Indian Medical Council Act, 1956 and the broad functions of CCIM are similar to those of the Medical Council of India with regard to framing of regulations for maintaining standards of Indian Systems of Medicine.

2. Experience in implementing the provisions of the above Act brought out glaring inadequacy on account of which the CCIM was unable to enforce the provisions of the Act in letter and spirit. There has been massive proliferation of sub-standard colleges of Indian Systems of Medicine in recent years. The CCIM granted permission for opening of colleges and courses and for enhancing admission capacity of existing institutions under the Indian Systems of Medicine without enforcing the minimum standards of education required under the regulations made under the Act.

3. To arrest the mushroom growth of sub-standard colleges and courses and increase in the admission capacity in the existing colleges devoid of requisite infrastructure, the Indian Medicine Central Council Act,1970 was amended *vide* the Indian Medicine Central Council (Amendment) Act, 2002 to provide for permission of the Central Government for establishing new medical institutions and to open new or higher courses of study and increase admission capacity. This amendment came into force with effect from 28.1.2003.

4. The Ministry of Law and Justice pointed out certain deficiencies in the amended Act and found that the term "medical institution" used in sections 13A and 13B could not be interpreted otherwise or in conflict with the definition under clause (*f*) of section 2 of the Indian Medicine Central Council Act, 1970 which provided that institutions competent to grant degrees, diplomas or licence in Indian medicine could only be treated as "medical institutions" and, therefore, "medical college" did not come under the definition of "medical institution".

5. In order to meet the situation, it was decided to amend the Indian Medicine Central Council Act, 1970. Accordingly, the Indian Medicine Central Council (Amendment) Ordinance, 2003 (No. 8 of 2003) was promulgated on the 7th November, 2003, so as to—

(*a*) insert a new clause (*ea*) in section 2 of the Act to provide for the definition of "medical college";

(*b*) substitute sections 13A and 13B of the Act to provide for previous permission of the Central Government for establishment of new medical college, new course of study, etc., in place of establishment of new medical institution, new course of study, etc., and to add a new section 13C in the Act to provide for time for seeking permission of the Central Government for certain existing medical colleges.

6. The Bill seeks to replace the said Ordinance.

SUSHMA SWARAJ.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill seeks to substitute Chapter IIA of the Indian Medicine Central Council Act, 1970. New Section 13A in Chapter IIA seeks to provide for the form in which the scheme shall be submitted by every person or medical college to the Central Government for obtaining its permission to establish a new medical college, to open new or higher course of study or training and increase in admission capacity in any course of study or training. It also provides for the particulars the scheme shall contain, the manner in which the scheme shall be preferred and the fee which shall accompany the scheme.

The matters in respect of which power is proposed to be given to the Central Government to frame rules/regulations are matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

II

BILL NO. LXVII OF 2003

A Bill to repeal the British Law Ascertainment Act, 1859, the Foreign Law Ascertainment Act, 1861, the Colonial Probates Act, 1892, in so far as they apply to India, and the India (Consequential Provision) Act, 1949.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

1. This Act may be called the British Statutes (Repeal) Act, 2003. Short title.

22&23 Vict. C.63
24&25 Vict.C.11
55&56 Vict.C.6
12,13 & 14
Geor. VI C.92.

2. In this Act, "British Statutes" means the British Law Ascertainment Act, 1859, the Foreign Law Ascertainment Act, 1861, the Colonial Probates Act, 1892, in so far as they apply to India, and the India (Consequential Provision) Act, 1949. Definition.

3. The British Statutes are hereby repealed. Repeal.

STATEMENT OF OBJECTS AND REASONS

The Commission on Review of Administrative Laws, which was set up by the Central Government on the 8th May, 1998, has recommended, *inter alia,* repeal of certain British Statutes. In pursuance of the recommendations of the Commission, the Central Government, after consultation with the concerned Departments has decided to repeal four enactments, namely, the British Law Ascertainment Act, 1859, the Foreign Law Ascertainment Act, 1861, the Colonial Probates Act, 1892, in so far as they apply to India, and the India (Consequential Provision) Act, 1949, as they have either outlived their utility or ceased to serve any purpose and have thus become obsolete. It is, therefore, considered appropriate to repeal the aforesaid enactments as part of implementation of the recommendations of the Commission.

2. The Bill seeks to achieve the above object.

ARUN JAITLEY.

III

BILL NO. LXVI OF 2003

A Bill to amend the Electricity Act, 2003.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Electricity (Amendment) Act, 2003.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 14.

36 of 2003.

2. In section 14 of the Electricity Act, 2003 (hereinafter referred to as the principal Act), in the sixth proviso, for the brackets and words "(including the capital adequacy, creditworthiness, or code of conduct)", the words "relating to the capital adequacy, creditworthiness, or code of conduct" shall be substituted.

Amendment of section 42.

3. In section 42 of the principal Act, in sub-section (*2*), after the fourth proviso, the following proviso shall be inserted, namely:—

"Provided also that the State Commission shall, not later than five years from the date of commencement of the Electricity (Amendment) Act, 2003 by regulations, provide such open access to all consumers who require a supply of electricity where the maximum power to be made available at any time exceeds one megawatt.".

Substitution of new section for section 121.

4. For section 121 of the principal Act, the following section shall be substituted, namely:—

Power of Appellate Tribunal.

"121. The Appellate Tribunal may, after hearing the Appropriate Commission or other interested party, if any, from time to time, issue such orders, instructions or directions as it may deem fit, to any Appropriate Commission for the performance of its statutory functions under this Act.".

Amendment of section 135.

5. In section 135 of the principal Act, in sub-section (*2*),—

(*i*) in clause (*a*), for the words "has been, is being, or is likely to be,", the words "has been or is being" shall be substituted;

(*ii*) in clause (*b*), for the words "has been, is being, or is likely to be,", the words "has been or is being" shall be substituted.

Subsitution of new sections for sections 139 and 140.

6. For sections 139 and 140 of the principal Act, the following sections shall be substituted, namely:—

Negligently breaking or damaging works.

"139. Whoever, negligently breaks, injures, throws down or damages any material connected with the supply of electricity, shall be punishable with fine which may extend to ten thousand rupees.

Penalty for intentionally injuring works.

140. Whoever, with intent to cut off the supply of electricity, cuts or injures, or attempts to cut or injure, any electric supply line or works, shall be punishable with fine which may extend to ten thousand rupees.".

Amendment of section 146.

7. In section 146 of the principal Act, the following proviso shall be inserted, namely:—

"Provided that nothing contained in this section shall apply to the orders, instructions or directions issued under section 121.".

STATEMENT OF OBJECTS AND REASONS

The Electricity Act, 2003 has been enacted and the provisions of the Act (except section 121) have been brought into force with effect from the 10th June, 2003.

2. At the time of consideration of the Electricity Bill, 2003 in the Rajya Sabha, certain amendments were moved. The Minister-in-charge, at the time of consideration and passing of the said Bill, gave an assurance in the Rajya Sabha to introduce official amendments on four issues. It is, therefore, proposed to amend the Electricity Act, 2003 to fulfil the said assurances on these issues, namely:—

(a) amendment of sixth proviso to section 14 of the Electricity Act, 2003 which reads as under:

> "Provided also that the Appropriate Commission may grant a licence to two or more persons for distribution of electricity through their own distribution system within the same area, subject to the conditions that the applicant for grant of licence within the same area shall, without prejudice to the other conditions or requirements under this Act, comply with the additional requirements (including the capital adequacy, creditworthiness, or code of conduct) as may be prescribed by the Central Government, and no such applicant, who complies with all the requirements for grant of licence, shall be refused grant of licence on the ground that there already exists a licensee in the same area for the same purpose:".

Some Members of Parliament, at the time of consideration and passing of the said Bill, had expressed concern that the brackets and words "(including the capital adequacy, creditworthiness, or code of conduct)" occurring in the said proviso could give undue discretion to the Central Government in issuing or modifying guidelines. It is, therefore, proposed to amend the said proviso so as to substitute the words "relating to the capital adequacy, creditworthiness, or code of conduct" for the brackets and words "(including the capital adequacy, creditworthiness, or code of conduct)";

(b) specifying the time-frame for phased introduction of open access in distribution of electricity by making necessary amendment to section 42 of the aforesaid Act to take care of the apprehension by some Members of Parliament, at the time of consideration and passing of the said Bill, that introduction of open access without any time-frame could be unduly delayed by the State Electricity Commission;

(c) amendment of section 121 of the Act regarding general powers of superintendence and control over the Appropriate Commissions by the Chairperson of the Appellate Tribunal. Section 121 of the Act at present provides that the Chairperson of the Appellate Tribunal shall exercise general power of superintendence and control over the Appropriate Commission. Some of the Members of Parliament expressed the concern that the power under this section could lead to excessive centralisation of power and interference with the day-to-day affairs of the Appropriate Commissions by the Chairperson of the Appellate Tribunal, which may be beyond supervision of statutory functions of the Appropriate Commissions. Hence, the proposed amendment;

(d) amendments to sections 135, 139 and 140 of the aforesaid Act were also suggested by some Members of Parliament at the time of consideration and passing of the said Bill. It is, therefore, proposed to omit the words "or is likely to" in

clause (a) of sub-section (2) of section 135 (in context of power of inspection of premises likely to be used for unauthorised use of electricity); to substitute sections 139 and 140 of the Act so as to (i) omit the words "negligently causes electricity to be wasted or diverted or" in section 139; and (ii) omit the words "maliciously causes electricity to be wasted or diverted," in section 140 which may cause undue harassment.

3. The Bill seeks to achieve the above objects.

ANANT G. GEETE.

YOGENDRA NARAIN,
Secretary-General.

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